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ABSTRACT

Mandatory retirement of college faculty, as affected by the amendments to the Age Discrimination in Employment Act (ADEA), is considered in relation to the changing faculty age profile, retirement strategies to cope with ADEA, and other issues under ADEA. ADEA raised the mandatory retirement age from 65 to 70, and tenured faculty were exempted until June 1982. The majority (52 percent) of faculty are in the 30-44 age bracket, and this category constitutes 41 percent of all tenured faculty. The majority of institutions have a mandatory retirement age but are willing to extend it on a year-by-year basis. It is suggested that the ADEA will create additional financial pressures on higher education institutions and may, at the same time, impair quality, if staff size needs to be reduced or unproductive faculty must be retained. Projections indicate that there will be a decline in junior faculty hires until 1995 with a possible increase thereafter. It is proposed that colleges and universities should create innovative policies regarding retirement, tenure, and faculty development to cope with ADEA and also to respond to longer-term issues, such as long-range staff planning, new salary structures, and second career/mid-career changes. The new legislation does not preclude retaining the concept of a normal retirement age of 65. Preretirement counseling as a means to communicate the potential benefits of a normal retirement age, reduced benefits for older workers that are allowed by the new law, and the option of early retirement are considered. Tenure proposals and other important salary structures, the need for criteria for evaluating faculty performance, and the issue of faculty career change are addressed. A bibliography is included. (SW)

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Mandatory retirement of higher education faculty

Janet Novotny

U S DEPARTMENT OF HEALTH, EDUCATION & WELFARE
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When the amendments to the Age Discrimination in Employment Act (ADEA) to raise the minimum mandatory retirement age from 65 to 70 were enacted in March 1978, they exempted tenured college and university faculty until June 30, 1982. That is, a tenured employee who reached an institution's own mandatory retirement age of less than 70 before 1982 could be forced to retire.

This exemption, urged by many in the academic community, reflected the fear that the higher mandatory retirement age would force institutions to continue to employ a large number of older faculty who normally would retire at age 65. The implications of such a step for lessening institutional vitality, increasing budgets, stifling careers of young doctorates, and threatening affirmative action concerned many in academic life (Coughlin 1977). Moreover, the ADEA amendments were passed during a time when higher education had been lowering mandatory ages and granting fewer extensions beyond age 65 (Coolidge and Taylor 1973). The importance of the exemption to the higher education community is indicated by the fact that 80 percent of all institutions having tenure and a retirement age of less than 70 indicated in a post-ADEA survey that they planned to use the exemption (Corwin and Knepper 1978).

While the exemption does little to allay the long-range problems the academy foresaw with the new amendments, it does allow educators an opportunity to plan new retirement policies and to examine the potential impact of the ADEA on their faculty staffing policies.

Changing faculty age profile

During the 1950s and 1960s the size of college and university faculties increased dramatically to accommodate the boom in enrollment. Young, newly trained faculty brought the latest developments in all disciplines and professions to the campus. Faculty enjoyed a high degree of mobility and with it, the leverage for increasing salaries and perquisites. Tenure and retirement policies were designed to retain faculty members in numbers sufficient to meet enrollment demands.

But, as enrollment growth began to slow in the 1970s, a contraction set in. Tenured faculty members, instead of being replenished continuously at all ranks, slowly became a stable, static group with less opportunity to move from one institution to another. The trend will accelerate in the '80s as enrollment begins to decline, and this raises concerns over the current age profile of faculty members and related tenure rates and retirement policies.

Faculty ages. Part of the initial concern with the ADEA arose from the belief that there is a tenured "bulge" of faculty members currently in their 40's who would not retire until the end of the century (Ford 1978). A December 1978 American Council on Education (ACE) study found the following age distributions:

Age	Percent	Age	Percent
under 30	7.4	50-54	11.3
30-34	17.2	55-59	8.9
35-39	19.0	60-65	6.0
40-44	15.3	66-69	0.7
45-49	13.9	70 and over	0.1

This shows the majority of faculty (52 percent) to be in the 30-44 age bracket. The median age is 42 (Corwin and Knepper 1978). The Carnegie Council projects the median faculty age to be 50 to 52 by 1995 (Fernendez 1978).

Tenure. The large number of faculty members hired in the boom of the '50s and '60s will not begin to retire until around the year 2000. Moreover, they are tenured. The 52 percent majority in the 30-to-44 age category constitutes 41 percent of all tenured faculty. (Seventy percent of all institutions have tenure systems; most of those without tenure are two-year colleges [Corwin and Knepper 1978]). A recent survey found that in institutions with tenure systems 56 percent of the faculty was tenured. Public institutions tended to be more heavily tenured, with ranges from 56 percent at two-year institutions to 63 percent at universities. At private institutions, the corresponding range was from 50 to 55 percent (Corwin and Knepper 1978). These figures may be somewhat conservative. Carnegie Commission data for four-year institutions indicate that in 1969-70, 50 percent of faculty were tenured but in 1980-81 that figure has risen to 75 percent (Carnegie Commission 1980).

Retirement policies. A post-ADEA survey showed that 91 percent of all respondents had mandatory retirement ages (Corwin and Knepper 1978). For 65 percent of the respondents the mandatory age was 65; for 15 percent it was 70; and for 11 percent it was between 66 and 69. Most institutions with such systems grant extensions on a case-by-case, year-by-year basis, up to a "compulsory" age.

The ADEA amendments seem to have led some institutions to move toward higher mandatory retirement ages or to eliminate mandatory ages altogether. In 1979, a follow-up to the Corwin and Knepper study showed an 8 percent reduction in the number of institutions having any mandatory retirement age and a 20 percent increase in the number that had raised the mandatory age to 70 (Corwin and Gross 1979). Still, most institutions do have a mandatory age, and, to date, most have chosen not to raise it.

Given, then, that the majority of institutions have a mandatory retirement age but are willing to extend it on a year-by-year basis, do faculty members tend to take advantage of the option, or do they retire at the institution's expected retirement age, or earlier? Unfortunately, little data are available to answer this question. The Teachers Insurance and Annuity Association (TIAA) showed, in a 1974 study (Ingraham and Mulanaphy) of its annuitants, that 47 percent retired by age 65, 37 percent between 65 and 70, and 14 percent after age 70. Two percent did not report their retirement age.

Another question is whether faculty tend to retire at differing rates based on their type of institution. Again, little data are available on this question, however, one study indicates that 21 percent of faculty at research universities planned to retire before age 64, compared to 33 percent at doctoral universities, 40 percent at other universities and colleges, and 59 percent at two-year colleges (Palmer and Patton 1978).

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Costs of the ADEA. The cost increases imposed by the ADEA are primarily for faculty salaries, since this item is the major expenditure in higher education institutions and since senior faculty members do earn more than their junior colleagues. According to the American Association of University Professors (AAUP), tenured full professors earn roughly twice the salary of newly hired assistant professors ($30,000 vs. $15,000) ("Impact of Federal Retirement-Age Legislation" 1978). It is estimated that, with retirement at age 70, faculty compensation costs (salary plus benefits) would begin to exceed those for retirement-at-65 policies by 1983 because older faculty members will defer retirement beyond 65 and not be replaced by less expensive junior faculty. The difference would be 4 percent by 1987, would level out to about 2 percent by 1989, and would continue at that rate (Corwin and Knepper 1978).

There is disagreement about the effect of these increased costs on institutions. Some think the increase will not be a burden because it will be possible to give smaller salary increments, reduce the pool of salary dollars for those older faculty who do remain, reduce staff size, and leave positions vacant (Jenny, Heim, and Hughes 1979). Others conclude that the effect by institution will fall unevenly, because of differing faculty age and enrollment profiles and varying budgetary strategies and conditions at various institutions.

Clearly the ADEA will create additional financial pressures on higher education institutions and may, at the same time, impair quality, if staff size needs to be reduced or unproductive faculty must be retained.

Effect of ADEA on new hires. Another effect of the ADEA that has caused much concern is the potential decrease in new hires due to older faculty staying on to age 70. Projections since the passage of the ADEA estimate that the proportion of faculty 65 or over will increase from 1.6 percent (7,600) in 1982 to 5.3 percent (26,100) in 1987, thus forecasting that older professors staying on past age 65 could more than cancel out openings for new hires. Under these assumptions, junior hires will decline from 14,600 in 1978 to zero by 1983 and remain at zero through 1988. Under the old retirement age of 65, the flow of openings would have been zero only in 1985 and 1986 (Corwin and Knepper 1978).

These projections are gloomier than an earlier set of projections based on the Cartter (1976) numbers and made for the Carnegie Commission by Fernandez (1978). Each of the three sets of projections (low, medium, high) showed a decline in junior hires until 1995 with a possible increase thereafter. The most optimistic projection until 1995 was a total of 155,000 new hires, an average of 7,500 per year, 25 percent less than the 10,000 estimated by Cartter's 1976 projections. Fernandez projects that despite the low rate of hiring in the '80s and '90s, if women are treated equally with men, the proportion of women in academe could be tripled by the end of the century.

The projections of the effect of the ADEA thus seem to indicate that the new law will only exacerbate current and future fiscal and faculty problems. If higher education looks ahead to the next 20 years of an increasingly static older faculty and simply accepts whatever negative consequences may follow in increased costs, stale faculty, and a dated curriculum, the effects will be that much worse. If, on the other hand, institutions seek to maintain and improve the health and vigor of the academic enterprise, they will need to create innovative policies regarding retirement, tenure, and faculty development that not only cope with the ADEA but also respond to longer-term issues, such as long-range staff planning, new salary structures, and second career/mid-career changes.

Janet Novotny is an educational consultant in Washington, D.C. She formerly was an analyst in the Division of Academic Affairs Research of the Iowa State Board of Regents.

Retirement strategies to cope with the ADEA

Maintain the concept of a normal retirement age. While the new legislation prevents mandatory retirement before age 70 it does not preclude retaining the concept of a normal retirement age of 65. In fact, the Department of Labor regulations for the ADEA introduce the concept of a "normal retirement age," an age at which an employer may cease or reduce certain benefits to older workers.

Maintaining such a concept may be vital in continuing faculty turnover because in the last decade academics, following a trend in the labor market as a whole, have begun to retire earlier (Patton, Kell, and Zelan 1977). TIAA data indicate that the percentage of TIAA annuitants beginning their payments at age 65 rose from 16 percent in 1966 to 25 percent in 1971 to about 33 percent in 1976. Correspondingly, the percentage starting their annuities at older ages declined from 20 percent in 1966 to 14 percent in 1971 to about 10 percent in 1976 (Heim 1978). The reasons for this change are not known, however, a concept of normal retirement at 65 may help to support this trend.

In addition, establishment of a normal age serves as a base for planning and setting primary retirement objectives for both institution and individuals (Jenny, Heim, and Hughes 1979), particularly with regard to income. If a person expects to retire at age 65, he or she can begin at an early enough age to plan for an adequate retirement income. Likewise, the institution can also design its retirement policies to ensure that retirement income will be sufficient. Several national educational associations—the American Association of University Professors, the Association of American Colleges, the American Association of Community and Junior Colleges, and the Association of Governing Boards—and TIAA have supported the concept of a normal retirement age ("Statement of Principles" 1979; Gerhardt 1980; "The Retirement Problem" 1978).

Preretirement counseling. The potential benefits of maintaining a normal retirement age could be enhanced greatly by preretirement counseling. For the employee, counseling would provide information about retirement and thereby reinforce confidence about retirement plans (Brenner and Linnell 1976; Casebolt, Hustedt, and Juhnke 1976). For the institution, counseling could provide information about the retirement plans of employees that could be incorporated in the institution's long-range manpower planning. To date, few institutions have enacted formal preretirement programs for their employees (Mulanaphy 1978).

Reduced benefits. Institutions hoped they could recoup costs incurred under the ADEA by taking advantage of certain benefit reductions allowed by the new law. These include reductions in life insurance and retirement benefit contributions made by the institution for older employees and several changes regarding medical insurance and long-term disability. Unfortunately, savings involved in these reductions appear to be modest except for institutions where the number of older workers is very large (Jenny, Heim, and Hughes 1979).

Early retirement. Perhaps the most appealing option for responding to the ADEA is early retirement of older faculty members. This option has been available for some time, although it usually has been offered with a *reduced* annuity. The concept has been supported by the higher education community since the early '70s (Commission on Academic Tenure in Higher Education 1973; Furniss 1974), and institutions have been seeking information from TIAA since that time on types of early retirement *supplements* that could make early retirement financially attractive (Slater 1972).

Study also has been made of the financial consequences of early retirement (Jenny 1974) and of incentive Early Retire-

ment (IERt) options (Jenny, Heim, and Hughes 1979; Patton, Kell, and Zelan 1977).

To date, only a few academic institutions have formal IERt programs, and they have retired only a few individuals (Patton, Kell and Zelan 1977; Corwin and Knepper 1978). Cost has been a deterrent. If a faculty member has to be replaced, IERt does not save money. Even if a full professor is replaced by an instructor or an assistant professor, the cost of the new faculty member combined with the cost of the IERt can at least equal, or exceed, the full professor's salary.

Several recent studies suggest that professors would retire earlier if their retirement incomes were adequate (Cliff 1974; Ladd and Lipset 1977; Palmer and Patton 1978; and Patton 1977). Another study suggests that the very faculty members who would find the IERt appealing often would be those the institution would want to retire early. Patton, Kell, and Zelan (1977) show that 40 percent of incentive early retirees retired because they lost interest in, were dissatisfied with, or had too much pressure at work; 21 percent retired for health reasons; and 12 percent could not adapt to a changing administration or faculty focus of their department.

Ladd and Lipset (1977) show that those professors who want to stay on to later ages are those with the highest scholarly standing and achievement. Because of the potential for maintaining institutional vitality that IERt affords, the AAUP has called for studying ways to reduce its cost ("Impact of Federal Retirement-Age Legislation" 1978).

IERt encompasses a range of options from supplements that provide full salary or better to practically nothing but a few perquisites such as use of office space. Jenny, Heim, and Hughes (1979) mention: zero- or low-cost arrangements (perquisites, life and health insurance, continued tuition benefits); consulting; phased retirement (reduction of work duties at normal retirement age with diminution until the mandatory age); and pension supplements, pension premium continuation, salary continuation, and other arrangements.

Of these various options, *pension premium continuation* seems to be the most popular. Under this arrangement, the employer agrees to continue payments into the pension until the mandatory retirement age and the annuitant postpones claiming payment until that age. The *salary continuation plan* involves the payment of some portion of the annuitant's salary until the "normal" or "mandatory" age. In a variation of this plan the institution adds a salary escalator of some type. *Severance pay* provides payment of a fixed sum at one time or in multiple installments. The *supplemental annuity* permits an early retiree to obtain retirement income immediately upon retirement and yet receive the benefits of a supplemental annuity at the normal or mandatory age. The *excess benefit plan* is a complex provision coordinating with a regular retirement plan.

Patton, Kell, and Zelan (1977) list a similar range of options, but further subdivide the supplemental annuity and combine the various types of options. Their list includes: full-salary annuity, severance payment, individual-based annuity, group-based annuity, individual-based annuity with part-time employment, continued annuity payments, severance payment plus continued annuity payments, liberalized benefits schedule, and continued perquisites. The authors report that each of the first six options frees enough funds in at least one category for hiring one replacement, although they conclude that, from a strict cost standpoint, each institution must perform its own calculations to decide which option to use.

IERt will not lead to many retirements very soon; not that many retirement-age faculty members are in the pipeline. The issue is more a qualitative one: IERt can eliminate deadwood, enable a few faculty members who want to retire early to do so, and broaden career options. It can also provide flexibility in an overall long-range staff plan (Jenny, Heim, and Hughes 1979).

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Other issues under the ADEA

Long-range planning. The need for long-range planning is pointed up by the ADEA, both to help stagger the retirement dates of the current 30 to 44-year-old faculty group so they do not create a vacuum by leaving at the same time, and to ensure vitality by working for the best faculty age mix. Both require planning: information must be gathered and looked at in the light of institutional mission, and policies must be set to achieve that mission. Such simple data as existing staff age structures and long-range staff attrition, particularly age-specific separation rates viewed under a variety of enrollment assumptions, need to be gathered. One recent study found that administrators seem to lack perception of long-range staffing requirements, particularly for faculty, and to lack information to support such planning (Jenny, Heim, and Hughes 1979). Many faculty flow models are available for institutions to test out the effects of various changes in their scenario, such as changes in tenure rate, outmigration (taking a position elsewhere), death and retirement, enrollment, and other parameters (Patton, Kell and Zelan 1977). Such models have been used at Stanford (Hopkins 1974) and the University of Rochester (Nevison 1980).

Tenure. A prime consideration in any long-range plan is tenure policies. One proposal is to change *tenure-for-life* to *tenure-for-fixed-periods*. Tenure would be granted for a period, say of 10 years, and then a review is made to determine if a further award is justified (Linney 1979; Oi 1979). Such a policy, by terminating faculty members who have become unproductive or whose promise has not borne fruit, would open up positions for young doctorates. Others take the position that the mistakes that do occur with the present tenure process could be prevented by conducting more rigorous tenure reviews and by reformulating tenure criteria (Linnell 1979).

Another proposal is for older professors to vacate their tenure slot at a certain age, say 60 (McLane 1979). Such a policy, of course, would have to be voluntary and would assume that another faculty member was eligible for tenure.

A third proposal is to tighten tenure ratios. A faculty flow model testing the effects of tenure denial rates, outmigration rates, mid-career change, and new hires/replacement rates on a university faculty, found tenure denial rate and outmigration to produce the greatest change in faculty age structures. The study found a 4 percent tenure denial rate produced the most normally distributed faculty, i.e., a faculty with greater percentages of younger that older age groups. Too high a denial rate produced a bimodal faculty distribution with bulges in the upper ages and in the lower ages of those whose tenure decisions had not yet been made (Patton, Kell and Zelan 1977). Since the outmigration rates in the next several decades will be low, institutions might consider the possibilities of adjusting tenure denial ratios.

New salary structures. Because older faculty members earn roughly twice the salary of new assistant professors and because salary increases can motivate tenured faculty to produce, several new salary structures have been proposed to cut salary costs and to provide adequate rewards for faculty.

One policy suggests *limited salary flexibility*, wherein next year's salary could be reduced by some fixed percentage, say 2 percent (Oi 1979). The dollars saved by this method would be added to a merit pool and distributed according to established university procedures related to productivity. This policy would reward the more productive and limit the penalty for the less productive.

Oi also has suggested a second policy he sees as growing logically out of the dual responsibilities of tenure. In this *two-track salary plan*, each faculty members would be paid an annual wage as compensation for services as teacher-researcher (W) and

another stipend (C) in return for services as joint director-manager of the institution. Component W would be awarded based on evaluations; component C would be related to tenure. Making such a distinction might allow the institution to terminate tenure and its stipend at a given age, if rules and regulations for tenure were revised to extend the rights and privileges of tenure for a term of fixed duration. For, although the ADEA amendments require institutions to employ their faculty members, they do not require retaining the same individuals as active participants in the administration of the university.

Performance evaluation. One of the most difficult issues related to the ADEA is to determine when a tenured faculty member's performance has declined to the point where it is no longer satisfactory (Ford 1978). In times when a faculty member retired at age 65, institutions were more willing to evade the issue and wait until the person retired. Now, with the mandatory age of 70, they must resolve it. The AAUP has recognized this issue and has suggested, as a disincentive to continuance of older faculty members, that institutions apply uniformly to all faculty a standard of productivity—if faculty cooperation could be won for such a venture ("Impact of Federal Retirement-Age Legislation" 1978).

The ADEA allows dismissal of employees no longer able to handle the tasks for which they were hired (Hamblin 1976; Heim 1978; and Jenny, Heim, and Hughes 1979). However, to take advantage of such a provision, all faculty members must be evaluated, for the older faculty member cannot be discriminated against. Improved records are needed to document performance over time so that if dismissal is necessary institutions will be protected in any ensuing litigation.

A major obstacle to performance evaluation is not legal but attitudinal. Performance evaluation has not been part of academic tradition. Faculty evaluation needs to be related to faculty development, and rewards for development need to be created. These rewards might include in-house visiting lecturers across departmental and college lines; mini-grants for developing new courses and specialties; and internal sabbaticals (Bevan 1980).

Second career/mid-career change. As the specter of an immobile faculty looms over higher education and is complicated by the ADEA, faculty members who are bored, disillusioned, or tired need help to find alternative career paths. To date, institutions of higher education have done little to encourage mid-career change.

One study of programs for mid-career change found only two programs to retrain faculty members operating on a fairly large scale. Both were designed to cope with enrollment shifts and declines and to retrain faculty members whose field was no longer in demand (Patton, Kell, and Zelan 1977). The National Endowment for the Humanities funded a smaller-scale program to retrain young humanities Ph.D.s into executive-level positions in business (*Careers in Business* 1978).

Attention currently is being given to the issue of faculty career change by several national higher education associations. The American Association for Higher Education recently received a Fund for the Improvement of Postsecondary Education grant to identify current policies and programs available to spur mid-career change either inside or outside of academe (Edgerton 1980).

Todd Furniss at the American Council on Education is urging administrators to help college teachers consider alternatives to academic life by providing faculty support groups for those who might wish to change (Jacobson 1980). Institutions could offer various kinds of assistance—career counseling, programs to help individuals identify feasible new careers, guidance for readjustment, leaves of absence to reduce risk or encourage experimentation, and if necessary, economic or fringe benefits while the individual becomes reestablished (Heim 1978).

Other personnel approaches. Other staffing responses to the ADEA include the use of part-time faculty (Jenny, Heim, and Hughes 1979) and floating nontenurable positions (Heim 1978; Linnell 1979). The state of Washington worked on plans to create flexibility in staffing in the steady state prior to the ADEA ("Faculty Career Planning" 1973). Their proposals included a package of options such as replacing all faculty who left the institution by assistant professors, supporting early retirement by making supplements available, creating a category of auxiliary faculty, and relating tenure decisions to flexibility in staffing.

Conclusion

The ADEA amendments promise to hit institutions in the places where they can least afford it: in their pocketbooks and in their faculty profiles. Ways must be found to recoup some lost revenue and to generate a faculty flow vigorous enough to maintain academic excellence and the promise of a rewarding faculty career over the next several decades. Early retirement plans may help alleviate both these problems if ways can be found to reduce their cost. Other innovative approaches also must be developed to prevent stagnation in the decades of enrollment declines and a tremendous vacuum when the large group of tenured faculty now in the 30-to-44 age group comes to retirement age and enrollments begin to rise again.

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